

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the) Application No. C-3726
Application of American Fiber)
Network, Inc., Overland Park,)
Kansas, seeking authority to)
operate as a local exchange) GRANTED
carrier and interexchange)
carrier of telecommunications)
services within the state of)
Nebraska.) Entered: January 17, 2007

BY THE COMMISSION:

By its application filed November 27, 2006, American Fiber Network, Inc. (Applicant or American Fiber), Overland Park, Kansas, seeks authority to operate as a facilities-based and resale provider of local exchange and interexchange telecommunications services within the state of Nebraska. Notice of the application was published in the Daily Record, Omaha, Nebraska, on November 30, 2006. No petitions for intervention were received; therefore this application is processed pursuant to the Commission's Rule of Modified Procedure.

O P I N I O N S A N D F I N D I N G S

Applicant is a wholly owned subsidiary of MobilePro Corporation, (MobilePro), Bethesda, Maryland, a publicly traded Delaware corporation. Applicant is incorporated under Delaware law and is authorized to transact business in the State of Nebraska. Applicant has been authorized to provide local exchange services in California, Oregon, Washington, Idaho, Nevada, Montana, Utah, New Mexico, Colorado, Kansas, Oklahoma, Missouri, Texas, Iowa, Wisconsin, Illinois, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, Michigan, Indiana, Ohio, Pennsylvania, Maryland, Massachusetts, New York, Connecticut, New Jersey, Minnesota, Louisiana, Tennessee, Kentucky, Hawaii, Mississippi and South Dakota. Neither Applicant nor its domestic member shareholders have been the subject of any formal complaints or other investigatory proceedings.

Applicant seeks authority to provide switched and dedicated access telecommunications services suitable for voice and limited data applications in the State of

Nebraska. Applicant plans to offer service to both residential and business customers. American Fiber does not propose to require advanced payments or deposits from customers. Applicant provides its own billing platform and a toll-free number for customer service will be available to American Fiber customers twenty-four (24) hours a day.

Applicant does not anticipate installing any new facilities or switches in Nebraska, but proposes to supply said local service through various contract arrangements consisting of Interconnection Agreements, commercial contracts and resale arrangements with the Incumbent Local Exchange Carriers (ILECs). Interexchange services will be provided through resale arrangements with state approved IXCs. Applicant further proposes to provide its services originating throughout the state of Nebraska where Qwest and Embarq are the ILECs. All local network services will be supplied by Qwest or Embarq.

Exhibit 5 to the application is a copy of American Fiber's financial statements for its fiscal year April 1, 2005 through March 31, 2006.

Applicant has no plans to provide local exchange services to areas served by an incumbent local exchange carrier in Nebraska that is eligible for a small or rural carrier exemption pursuant to Section 251(f)(1) of the Federal Act. Applicant does not seek to provide service to customers in those small or rural territories.

Applicant states it possesses the necessary expertise and management team to serve its Nebraska customers. In Exhibit 3, filed with the Applicant's application, Applicant provided profiles of its key executive and technical management.

Applicant states a grant of this application will serve the public interest because Applicant's proposed telecommunications services are developed to serve the local service needs of subscribers who cannot otherwise realize similar cost savings through local carriers. The consumers of telecommunications services in Nebraska will benefit from greater consumer choice created through the broadening of innovative telecommunications service alternatives and ongoing affordable rates maintained by the additional competitive pressure placed on other competitors.

The Commission considers this application for authority in light of the following criteria and standards established in the Commission's telecommunications rules:

- (a) Whether the Applicant has provided the information required by the Commission;
- (b) Whether the Applicant has provided a performance bond, if required;
- (c) Whether the Applicant possesses adequate financial resources to provide the proposed service;
- (d) Whether the Applicant possesses adequate technical competence and resources to provide the proposed service;
- (e) Whether the Applicant possesses adequate managerial competence to provide the proposed service; and
- (f) Whether granting the Applicant a certificate preserves and advances universal service, protects the public safety and welfare, ensures the continued quality of telecommunications services and safeguards the rights of consumers, pursuant to Section 253(b) of the Act.

Applicant has demonstrated that it meets the standards of financial, technical, and managerial competence and all other criteria necessary to provide interexchange services in the state of Nebraska and local exchange services in the proposed territories.

These opinions and findings carry no precedential value other than establishing minimum standards and criteria to apply when considering applications to provide interexchange and local exchange services in the above-mentioned territories. All telecommunications carriers seeking such a certificate must demonstrate that they meet, at a minimum, the standards and criteria set forth herein.

Before the Applicant is allowed to provide local exchange service to its users, it must either:

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1. Through negotiation or arbitration, reach an interconnection/resale agreement with the pertinent incumbent local exchange carrier and receive Commission approval of the interconnection/resale agreement; or
2. In the event a certified local exchange carrier provides a wholesale tariff, purchase rates from that tariff, file its own tariff and receive Commission approval of its tariff.

This order does not terminate, waive or in any manner diminish the exemptions and protections created by the Act for rural carriers, as defined by the Act. This order does not address the issue of the rural local exchange carrier exemption under the Act. Rural exemptions may be terminated, suspended or modified only as provided in Section 251(f) of the Act.

Prior to providing local exchange service in any area in the state of Nebraska, Applicant must file tariffs in accordance with the provisions of Section 002.21 of the Neb. Admin. R. & Regs. Title 291, ch. 5.

As a provider of interexchange and local exchange services in the state of Nebraska, Applicant would be subject to the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal service, restrictions on joint marketing and quality of service), applicable to any other local exchange company except those obligations imposed on ILECs pursuant to Section 251(c) of the Act.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-3726 be, and hereby is, granted.

IT IS FURTHER ORDERED that Applicant is obligated to abide by the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal service, restrictions on joint marketing and quality of service), applicable to any other interexchange and local exchange carriers, except obligations imposed on incumbent local exchange carriers pursuant to Section 251(c) of the Act.

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IT IS FURTHER ORDERED that, to the extent Applicant provides access line service as referenced in the Telecommunications Relay System Act, Neb. Rev. Stat. §§ 86-301 through 86-315 (Relay Act) and defined in Neb. Admin. R. & Reg. Title 291, ch. 5 § 001.01B, the Applicant shall collect from its subscribers a surcharge (Relay Surcharge) pursuant to the relay act and the Commission's annual orders establishing the amount of the surcharge, and shall remit to the Commission the proceeds from the relay surcharge as provided by the Relay Act.

IT IS FURTHER ORDERED that the Applicant comply with all necessary statutes and Commission Rules and Regulations as they pertain to the Nebraska Universal Service Fund.

IT IS FURTHER ORDERED that Applicant shall file, in accordance with the applicable statutes, on or before April 30 of each year, an annual report with the Commission consisting of: (a) a copy of any report filed with the Federal Communications Commission; (b) a copy of any annual report to stockholders; and (c) a copy of the latest Form 10-K filed with the Securities and Exchange Commission. If such reports are unavailable, Applicant shall file a balance sheet and income statement for the previous year of operation, and for the state of Nebraska on a combined interstate-intrastate basis, the investment in the telephone plant and equipment located within the state, accumulated depreciation thereon, operating revenues, operating expenses and taxes.

IT IS FURTHER ORDERED that within 30 days from the entry of this order that the Applicant file a tariff and pay appropriate filing fees with the Commission as required by state statutes and the Commission's regulations.

IT IS FINALLY ORDERED that this order be, and hereby is, made the Commission's official Certificate of Public Convenience and Necessity to the Applicant to provide facilities-based and resold interexchange and local exchange telecommunications services in the state of Nebraska.

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MADE AND ENTERED at Lincoln, Nebraska, this 17th day
of January, 2007.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Gerald L. Vop

Chairman

Anne C. Boyle

Rod Johnson

Tim Schram

ATTEST:

//s// Frank E. Landis

//s// Rod Johnson

J. B. Pollack

Executive Director